

REMARKS

I. Status of Application

Claims 10-17 are all the claims pending in the application. Claims 10-17 presently stand rejected.

II. Formalities

The Examiner has acknowledged Applicant's claim to foreign priority and has indicated receipt of the certified copy of the Priority Document.

The Examiner has returned the initialed Form PTO/SB/08 filed with the Information Disclosure Statement on September 29, 2006, thereby indicating that all the references cited therein have been considered.

The Examiner has indicated acceptance of the drawing figures filed on September 29, 2008.

III. Claim Rejections Under 35 U.S.C. § 112

Claims 10-17 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Applicant respectfully traverses all of these rejections for *at least* the reasons set forth below.

The grounds of rejection allege that the specification does not appear to enable the features of an opening/closing member that is configured to cover said oxidizing agent electrode by changing its shape to close said oxidizing agent supply path, as recited in claim 10. Applicant respectfully disagrees with the grounds of rejection and submits that one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information

known in the art without undue experimentation.¹ In particular, *at least* FIGS. 2A and 2B of the originally filed specification enable one reasonably skilled in the art to make or use the claimed opening/closing member that is configured to cover said oxidizing agent electrode by changing its shape to close said oxidizing agent supply path, as claimed. As shown in FIGS. 2A and 2B, and as explained by the corresponding description thereof, the balloon 1652 is configured to cover the oxidizing agent electrode 108 by changing its shape.

Moreover, without conceding to the merits of the Examiner's rejection, Applicant has amended claim 10, as set forth above, to more clearly recite the features of the present invention. Applicant respectfully submits that amended claim 10 satisfies the requirements of 35 U.S.C. § 112 and is patentably distinguishable over the prior art. Further, the dependent claims 11-17 are patentable *at least* by virtue of their dependency.

Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

¹ See *United States v. Telectronics, Inc.*, 857 F.2d 778, 785, 8 USPQ2d 1217, 1223 (Fed. Cir. 1988). See also: *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916); *In re Wands*, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988); and MPEP § 2164.01.

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No.: 10/594,891

Attorney Docket No.: Q97096

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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